

The Salisbury Planning Board held its regular meeting Tuesday, June 27, 2006, in the City Council Chamber of the Salisbury City Hall at 4 p.m. with the following being present and absent:

PRESENT: Dr. Mark Beymer, Nathan Chambers, Robert Cockerl, Lou Manning, Sandy Reitz, Albert Stout, Dr. Kelly Vance, and Diane Young

ABSENT: Tommy Hairston, Brian Miller, Valarie Stewart, and Price Wagoner

STAFF: Janet Gapen, Dan Mikkelson, Preston Mitchell, Diana Moghrabi, Joe Morris David Phillips, Patrick Ritchie and Wendy Spry

Vice Chairman Lou Manning called the meeting to order and offered the invocation. The minutes of the June 13, 2006, meeting were approved as published.

The following text amendment was withdrawn.

T-07-06 City of Salisbury (City Wide)

Article IX, Signs—deleting the words “Bulletin Board” from references to ground or wall signs on churches in residential zoning districts.

NEW BUSINESS

Lou Manning read the explanation of a courtesy hearing. David Phillips made a staff presentation for G-10-06.

A. Group Development

- Staff Presentation
- Courtesy Hearing
- Board Discussion
- Motion

1. **G-10-06** Salisbury Shopping Center, LLC
900 Block of Freeland Drive
Tax Map 059-A, Parcel 074, Zoning B-4

Mr. Thomas H. Buckel, P.E. of Duplantis Design Group, PC submitted an application for the construction of a 29,700 square-foot retail center and three additional outparcels to be located at the southeast corner of Arlington Street and Freeland Drive.

Although the site plan meets code, City Staff has concerns that the site may have a potential impact on non-code related issues. Staff discussed with the developer the possible connectivity to an adjacent piece of property with access to East Innes Street. However, due to the grade changes between the properties, this is not a viable option. The Salisbury Police Department advised staff that the intersection of South Arlington Street

and Freeland Drive warrants further investigation due to the number of accidents over the past 12 months. Additional traffic volume will likely exasperate this problem. Staff recommends that the developer identify methods of mitigating this impact.

The proposed retaining wall fronting along South Arlington Street has a maximum height of 30 feet. This feature will produce a visual impact along Arlington Street. Even with the additional plantings proposed by the developer, staff has concerns that this will not "soften" the wall's overall appearance. (The landscaping does meet and exceed requirements.) The length of the wall will be between 300'-350' with an average 20' in height and approximately 28' at the highest point. Mr. Phillips offered photos of the site and of a high, walled structure with a person standing beside it for reference.

The proposed grading elevation leaves the wetlands and flood area undisturbed. There is an existing building on the site that will be removed.

Staff has three areas of concern.

- #1. The elevation between the two sites and possible connectivity. Staff has not pursued this.
- #2. An increase of traffic—A traffic impact analysis has been received by staff on this day, but staff has not had the opportunity to review the analysis.
- #3. The retaining wall is expansive. A rendering of the landscape is requested.

NOTE: The Group Development site plan and the subdivision preliminary plat are both being considered for approval.

Those speaking in favor of the improvements:

Glenn Ketner, attorney for Ketner/Dees, 121 E. Kerr Street and **Richard Finch** with the **Spectra Group, Inc.** 5851 Ridge Bend Road, Memphis, TN, who purchased the 8 1/2 – acre tract. The developer began working with city staff about four months ago and has responded to staff's questions. The June 22, memo included in the Planning Board packet states that the site plan meets code. There are three non-code issues that have been raised. Approval is needed as soon as possible.

Krider Family (A) sold to Spectra Group, Inc. (B) and closed June 14. The Krider family reserved control of an access easement across a portion of the property. Arlington Partners (C) owns the lower tract that fronts on Innes Street. Mr. Ketner presented a history of the property. There had been no practical access to the property—it took 20 years. Wal-Mart created access by putting in Freeland Drive, Arlington Street, and the bridge at its own expense. Those improvements were done to state specifications.

Spectra Group, Inc. spent \$7,000 for the traffic study and a traffic signal will cost \$125,000-\$150,000, but they are willing to do that. The visual impact along Arlington Street will be addressed within 48 hours with a landscape plan.

Mr. Finch stated that his goal is to be a good corporate citizen, but time is important. He builds exclusively next to Wal-Mart Super Centers. He has commitments from Cracker Barrel; 75 percent of the shop space is spoken for. He cannot make everyone happy, but the plan meets code, it looks good, and this approval will bring tax revenue to The City of Salisbury. He is in a situation of rising interest rates, rising construction costs, and time obligations.

Curry Krider of 109 6th Street, Spencer has tried to sell this property for 23-25 years. He has attended many shopping center conferences; he has spoken to literally hundreds of developers. Three times this property has been under contract. He offered history of the contracts. Mr. Finch's references have been checked thoroughly; he has done 100 percent of what was promised. He has every confidence in Mr. Finch and the Spectra Group.

Tom Smith of 325 Skysail is in favor of the project. He did not offer specific reasons, but feels this project is good for Salisbury.

Those speaking in opposition of the improvements:

Margaret Burnham, attorney for the Nexsen, Pruet, Adams, Kleemeier Law Firm, 701 Greenvalley Road, Greensboro, and **Donald Gibbs**, professional engineer for the adjacent property owners (on behalf of the Arlington Partners) 5565 Centerview Drive, Raleigh.

Most of their remarks were similar to those heard from staff. They are not opposed to a shopping center; however, they wish to see something more compatible for the adjacent property owner (Mike Kelly also present). They looked at what Salisbury wants based on the Vision 2020 Comprehensive Plan. The hotel/Waffle House site has a little frontage on Innes Street, but that property is not part of the Gateway Overlay District. The Salisbury Vision 2020 Comprehensive Plan specific policies C-10 and C-22 were called out. Connectivity is a theme in Salisbury planning and connectivity could be accomplished between these two sites.

Arlington Partners were very disappointed that the site plan provides no cross access. They felt cross access could be accomplished with no more than a 7 percent grade. This could eliminate a traffic light that is showing up on the traffic study. Cross access spreads the traffic leaving the proposed shopping center where it could enter Innes Street off of their site. Opposition to cross access seems to be coming from the timing of site plan approval. Ms. Burnham mentioned the issue of a one-foot easement filed possibly to control access. She discussed many traffic flow scenarios.

Mr. Gibbs pointed out what the "gateway" view would be upon the construction of the expansive wall; including a handrail and guardrail on the top of the wall. Ms. Burnham proposed that they develop the sites together to even up both sites. There is no landscaping provided on the Arlington Partners side of the wall. How is this to be maintained without coming onto their property? Any problem with the wall would be catastrophic on the Arlington Partners side of the wall. A poured wall is safer than a

segmented wall; any water backup would fill a segmented wall and it will fail. Safety, aesthetics, wetland compliance, and storm water runoff needs to be addressed. They were hoping to work out cross utilities.

Attorney David Shelby of 122 N. Lee Street and **Jimmy Kalogeromitros** of 319 Trapper Ridge Road – the latter has been the owner of Dunkin Donut site for over ten years. Access and connectivity are big issues for his business since the installation of the median in front of the property on East Innes Street. The result has been a 40 percent drop in revenue for his business. Customers must exit toward Granite Quarry and turn around at the Rushco. He reviewed traffic flow scenarios and the need for connectivity as stated in the Salisbury Vision 2020 Comprehensive Plan. There is connectivity at the Office Depot, Captain “D’s” and Cookout. Without connectivity this is likely to become the next gray field. There used to be an access down the side which is now closed due to the reconfiguring of the I85 interchange. The proposal Ms. Burnham made allows for more viable commercial sites in future.

Mr. Manning closed the Courtesy Hearing and asked staff to address some of the items brought up during the Courtesy Hearing.

Dan Mikkelsen reminded the Planning Board that Group Developments sent to City Council are a recommendation not a requirement. The code does give City Council vague authority to evaluate ingress, egress and unsafe traffic conditions. The analysis looked at the traffic signal as being the only means of mitigating traffic issues. The MUTCD recommends that other treatments are looked to before a traffic signal; a traffic signal is not our treatment of first choice. Traffic from Wal-Mart to Innes Street--projections need to be evaluated.

Mr. Mikkelsen did not know if one type of wall would be more likely to experience failure over another. The wall would be designed and sealed by a professional engineer.

Any wetland site development this size would be going through the Corps of Engineers to get permitting, and the city is left out of that process.

Board Discussion

Dr. Vance -- If we did have access between these two properties, basically everyone who wanted to turn right on Innes Street would come through the front property while anyone wanting to turn left would basically exit from Arlington Street due to the median on Innes Street. Access between the two properties then results in people from both properties going into the intersection at Arlington Street.

Dan Mikkelsen followed by saying traffic from Wal-Mart may head through the access to Innes Street. Reasonable traffic predictions are needed to demonstrate the percentages of people and to determine what would be their probable route. With tracts divided the way they are, the initial plans for building are not even in the cross access area. The 8-

acre tract will be divided into four sites. All of the grading will be done before the site is made available for individual building; it is easier to do the earthwork first.

Dr. Kelly Vance said, "We are not called today to make a decision about connectivity: it would be nice if we had connectivity, but we are here to make a decision about the site plan. It is a good use of the land, it would be good for the community, and it is a timely development. This area needs good development. The connectivity is a side issue. It would be nice to have connectivity. The development would be adequate without it; it would be optimal with it."

Dr. Mark Beymer feels the plan meets all the requirements and this is an ideal location. **Albert Stout and Robert Cockerl** agreed with Dr. Beymer and Dr. Vance

Diane Young went on record of being in favor of the development, but she hopes that between now and the City Council meeting more information about connectivity can be obtained. She has concerns about the massive retaining wall and what that will do to the appearance of that piece of the city's gateway.

Lou Manning said the Planning Board is charged with accomplishing the vision of the future for the city. He agreed with Ms. Young's concerns about the massive wall. He would like to see the landscaping proposal.

Sandy Reitz made a MOTION to approve G-10-06 as submitted. **Albert Stout** seconded the motion.

The Planning Board VOTED to approve G-10-06 (7-1) with Lou Manning voting against the motion.

B. Zoning Map Amendment

- Explanation of procedure
- Staff Presentation
- Courtesy Hearing
- Board discussion
- Statement of Consistency and Motion

1. Z-07-06 Rainy Day Investments, LLC, Petitioner

LOCATION: Unnumbered West Ritchie Road

Located between West Ritchie Road and the Julian Road/I-85 interchange-approximately 2,000 feet south of the intersection of Julian Road and W. Ritchie Road

From: A-1 **To:** M-1

Parcel: 402-004 & 400-026 (2 parcels)

Acres: 4.16

*Zoning Districts**A-1:*

- Forestry, Agriculture, very low-density residential in the rural planning areas
- More of a “holding zone” in urban planning areas
- Customary accessory uses

M-1:

- Wholesaling, Distribution, Processing
- Assemblage
- Light Manufacturing

Strategic Growth Plan

- Calls for the protection of “existing, viable neighborhoods”
- This area has not “become so completely infused or surrounded by non-residential uses that their continued viability as a housing resource has become questionable.”
- Protection of floodway and floodplain
- Industrial growth supported, but only after advance planning for careful siting
- Industrial facilities to locate on “physically suitable land.”

Code Requirements

Landscaping/Buffering—Development in the M-1 district will be required to provide an F-buffer yard and a D-buffer yard with complete visual separation against the A-1 and PSP districts.

Setbacks—Front is none; along the side and the rear is 4 feet; there is no maximum height.

Staff Recommendation

Staff believes that rezoning petition Z-07-06 is not entirely consistent with the overall growth strategies of the 2000 Strategic Growth Plan and the Vision 2020 Comprehensive Plan, and hereby recommends denial on Parcel 400-026 and no specific objection to rezoning on Parcel 402-004 to the Planning Board based on the analysis provided in the attached staff report.

Courtesy Hearing

Tim Ervin, manager of Rainy Day Investments stated that he had these two parcels under contract for the purpose of development in some commercial form. The property is not large enough to farm. There is too much traffic for a residence. He could build on the small parcel. The long parcel has about 85 percent on the flood plain. There are a number of utility easements that cannot be built upon. The main reason for that parcel is for the calculation purposes to meet parking requirements. The small parcel cannot stand alone because of the zoning requirements. He asked if some restrictions would resolve the issue and asked for help from staff and the Planning Board.

Preston Mitchell stated there were two immediate options that come to mind. One option is to create an "S" district (special zoning) on the Northern parcel. The special zoning is a quasi-judicial process. Another option would be to have the long parcel surveyed whereby the zone lines could be shifted from following the parcel lines and a split zone could be created.

There was no one speaking in opposition and Mr. Manning closed the courtesy hearing.

Board Discussion

Patrick Ritchie addressed the issue of development in the flood plain. This area is a 100-year flood fringe that may be filled or developed; they just have to meet elevation requirements.

Dr. Mark Beymer made a MOTION to refer Z-07-06 to committee to discuss with the petitioner the options mentioned by staff and bring back a recommendation; he would like to see a solution addressed at the next Planning Board meeting on July 11. Diane Young seconded the motion with all members voting AYE. (8-0) Committee 2 will meet Friday, June 30, at 7 a.m. at the Rowan Regional Hospital Cafeteria.

OLD BUSINESS

A. Z-06-06

Correction for Tax Map and Parcel 471-114

After the last Planning Board meeting, it was brought to Mr. Mitchell's attention that a small grocery should not be zoned R6-A so he proposed that this parcel should be zoned BRT.

Diane Young made a MOTION, stating that she believes that the proposal for zoning petition Z-06-06 is consistent with the overall growth strategies of the adopted Strategic Growth Plan and Comprehensive Plan; therefore, moved to recommend approval of establishing City zoning districts as proposed by staff as part of the 2006 annexation. **Albert Stout** seconded the motion with all members VOTING AYE. (8-0)

COMMITTEES

A. Report:

1. Committee 2--Courtesy Hearings

Currently, neither state law nor the Planning Board's Rules of Procedure require that the Planning Board hold a public hearing. That is why they are identified as courtesy hearings at this level. However, the Board always holds a courtesy hearing for every rezoning, text amendment, group development, and subdivision that is submitted to the Board for the first time. If a case is sent to the committee level, the committee returns a recommendation to the Board for their acceptance, deliberation, and ultimate action. It is

this second time before the Board where there is a question. Each committee member (Valarie Stewart, Mark Beymer, Kelly Vance, and Albert Stout) expressed dissatisfaction with the idea that a second courtesy hearing must be held. They agreed that it must be handled on a case-by-case basis.

A second important item of discussion was whether staff presentations should be limited to a specified time and in what order should the public and petitioner have an opportunity to speak. Two of the members expressed that staff needs to be free to decide which case requires more presentation time and in-depth analysis. However, it was agreed by all committee members and staff that presentations should not be a complete re-hashing of the staff report—that staff should expect all Board members will understand each case to a large degree upon entering the meeting. It was also agreed that there needs to be more Board-staff interaction with more questioning of staff in order to fully grasp staff's perspective. This is important because if staff inserts information without being asked, it may appear as being coercive instead of supportive.

Regarding public and petitioner speaking opportunities, Dr. Beymer proposed that the "CONS" speak first with the "PROS" speaking second. This comment was made in line with a proposal by Dr. Vance to have the petitioner always speak last; in effect, allowing him or her to address comments and concerns expressed by the general public.

Dr. Beymer requested that the following statement be included in this report: *"I strongly recommended that there be no reduction in staff presentation time of agenda items due to the need for the public, either in attendance or viewing on ACCESS 16, to have more specific background on the agenda items than are in the abbreviated executive summaries in order to understand the context of the planning board discussion. There is a public relations benefit in the present format and it is a courtesy worth extending by the planning board."*

Dr. Mark Beymer made a MOTION to change the Rules of Procedure to reflect a process where "CONS" speak first and the "PROS" speak second. There would be no change in staff presentation. The chair would be permitted to allow rebuttal during a courtesy hearing. Once a courtesy hearing is completed and referred to committee, it will not be returned to the planning board for further public discussion. (Not to be prohibited, but not to be expected.) The motion was seconded with all members VOTING AYE. (8-0)

Albert Stout made a MOTION to move past 6:00 p.m. All were in favor except Dr. Vance. (7-1)

2. Committee 3-S-07-06

Subdivision of Tax Map 019-A Parcel 025 into eleven residential lots

Patrick Ritchie spoke on behalf of Diane Young, the committee chair. The committee met Monday morning at 8 a.m. with representatives from city staff and the Housing Authority. There was lengthy discussion about lots that face both the interior street and

Shaver Street. The Housing Authority agreed to voluntarily place some conditions upon their plat that would hopefully satisfy the committee. They have since decided that they are not comfortable with the conditions and asked for another meeting before making a decision. A meeting was scheduled for Monday, July 3, at 8 a.m. but later this was canceled.

B. Schedule

1. Committee 1–Sidewalk Prioritization Plan Committee

The committee will schedule with the Board secretary.

VIII. OTHER BOARD BUSINESS

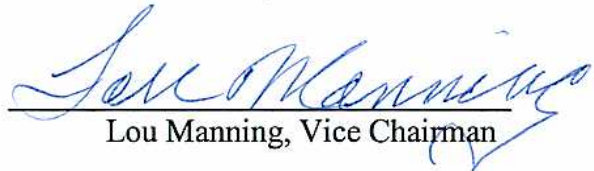
A. Staff

City Council approved a Resolution to enter into a Municipal Agreement with NC DOT on the comprehensive bicycle plan. The City of Salisbury was awarded a grant to develop a comprehensive bicycle plan.

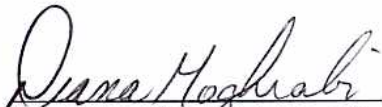
There being no further business to come before the Planning Board, the meeting was adjourned at 6:05 p.m.



Brian Miller, Chairman



Lou Manning, Vice Chairman


Secretary, Diana Moghrabi